

AN ACT

relating to the transfer of compensation experience for purposes of the Texas Unemployment Compensation Act.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 204.081, Labor Code, is amended to read as follows:

Sec. 204.081. DEFINITIONS. (a) In this subchapter:

(1) "Compensation experience" includes the period that benefit wage credits or benefits have been chargeable and any other factor under Subchapter A, B, C, or D necessary to the computation of experience rating under those subchapters.

(2) "Person" means an individual, trust, estate, partnership, association, company, or corporation.

(3) "Substantially common management or control" exists if, after the acquisition of the organization, trade, or business of an employing unit, the predecessor employing unit continues to:

(A) own or manage the organization that conducts the organization, trade, or business;

(B) own or manage the assets necessary to conduct the organization, trade, or business;

(C) control through security or lease arrangements the assets necessary to conduct the organization, trade, or business; or

(D) direct the internal affairs or conduct of the organization, trade, or business.

(4) "Substantially common ownership" exists if, on the date of an acquisition of the organization, trade, or business of an employing unit, a shareholder, officer, or other owner of a legal or equitable interest in the predecessor employing unit, or the spouse or a person within the first degree of consanguinity or affinity, as determined under Chapter 573, Government Code, of the shareholder, officer, or other owner:

(A) is a shareholder, officer, or other owner of a legal or equitable interest in the successor employing unit; or

(B) holds an option to purchase a legal or equitable interest in the successor employing unit.

(5) "Transfer of trade or business" includes the transfer of part or all of an employer's workforce to another employer if, as the result of the transfer, the transferring employer no longer performs trade or business with respect to the transferred workforce and the employer to whom the workforce is transferred performs trade or business with respect to the workforce.

(6) "Knowingly" means having actual knowledge of or acting with deliberate ignorance of or reckless disregard for the prohibition involved.

(b) For purposes of Subsection (a)(4), following a partial acquisition of an organization, trade, or business of an employing unit, substantially common ownership does not exist solely because the predecessor employing unit has the right to repossess the part

1 acquired by the successor employing unit in the event of the
2 successor's failure to complete a condition of the acquisition.

3 SECTION 2. Section 204.085, Labor Code, is amended by
4 adding Subsections (a-1) and (e) to read as follows:

5 (a-1) In the case of a partial acquisition for which the
6 transfer of compensation experience is required under Section
7 204.083, the predecessor employer and successor employer may
8 jointly submit, not later than the second anniversary of the date
9 the partial acquisition was completed, information necessary for
10 making the determination described by Subsection (a). The period
11 for which the information is submitted must be the lesser of:

12 (1) four years; or

13 (2) the length of time the predecessor employer was
14 liable for the payment of a tax under this subtitle.

15 (e) The commission shall include information about the
16 availability of a partial transfer of compensation experience under
17 this subchapter:

18 (1) with the information provided by the commission to
19 each new employer; and

20 (2) on any form, including in electronic format,
21 required to be submitted by an employer to report a change of
22 status.

23 SECTION 3. Sections 204.081(b) and 204.085(a-1), Labor
24 Code, as added by this Act, apply only to a partial acquisition of
25 an organization, trade, or business of an employing unit that
26 occurs on or after the effective date of this Act. An acquisition
27 that occurs before the effective date of this Act is governed by the

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1 law in effect on the date the acquisition occurred, and the former
2 law is continued in effect for that purpose.

3 SECTION 4. This Act takes effect September 1, 2015.

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President of the Senate

Speaker of the House

I certify that H.B. No. 1251 was passed by the House on May 5, 2015, by the following vote: Yeas 144, Nays 1, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 1251 on May 21, 2015, by the following vote: Yeas 139, Nays 1, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 1251 was passed by the Senate, with amendments, on May 20, 2015, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor